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§157.130. Emergency Medical Services and Trauma Care System Account.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Extraordinary emergency--An event or situation which may disrupt the services of a regional ems/trauma system.

(2) Rural county--A county with a population of less than 50,000.

(3) Urban county--A county with a population of 50,000 or more.

(b) Reserve. On September 1 of each year, there shall be a reserve of \$250,000 in the emergency medical services (EMS) and trauma care system account (account) for extraordinary emergencies. During the fiscal year, distributions may be made from the reserve by the commissioner of health based on requests which demonstrate need and impact on the EMS and trauma care system (system).

(c) Allotments. The EMS allotment shall be at least 70% and the trauma service area (TSA) allotment will be not more than 25% of the funds remaining in the account after any amount necessary to maintain the extraordinary emergency reserve of \$250,000 has been deducted.

(1) By August 31 of each year, the bureau of emergency management (bureau) shall determine:

(A) eligibility of all EMS providers, regional advisory councils (RACs), trauma facilities, and counties;

(B) the amount of the TSA and EMS allotments;

(C) each county's share of the EMS allotment; and

(D) each RAC share of the TSA allotment.

(2) The bureau shall contract with each eligible RAC to distribute the county shares of the EMS allotment to eligible EMS providers based within counties which are aligned within the relevant RAC. Prior to distribution of the county shares to eligible providers, the RAC will submit a distribution proposal to the bureau for approval.

(3) In cases where a RAC is ineligible to distribute the EMS allotment, the bureau shall contract with each county in which eligible EMS providers are based to distribute the EMS allotment. In counties with a population of 291,000 or more, joint authorization of the chief executive of the county and the mayor of the principal municipality in the county is required for disbursement of the county allocation.

(4) The bureau shall contract with each eligible RAC to distribute the TSA allotment. Prior to distribution of the TSA allotment, the RAC will submit a budget proposal to the bureau for approval.

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(5) In cases where a RAC is ineligible to distribute the TSA allotment, the bureau shall contract with each county in which a RAC chairperson resides to distribute the TSA allotment. For any RAC whose chairperson resides in a county outside of Texas, the chairperson must appoint another officer of the RAC who resides in a Texas county as his or her representative in order to determine to which county the RAC's share of the TSA allotment shall be distributed.

(6) Contracts shall include at a minimum:

- (A) a list of eligible participants;
- (B) a list of eligible expenditures;
- (C) requirements for reporting; and
- (D) requirements for returning undisbursed monies to the account.

(7) The county allocations of the EMS allotment shall be distributed directly to eligible recipients without any reduction in the total amount allocated by the Texas Department of Health (department).

(8) The county allocations of the EMS allotment shall be used as an addition to current county EMS funding of eligible recipients, not as a replacement.

(9) The bureau shall investigate all complaints regarding distribution of the EMS and TSA allotments.

(d) Uncompensated care allotment. The uncompensated care allotment shall be 2.0% of the funds remaining in the account after any amount necessary to maintain the extraordinary emergency reserve of \$250,000 has been deducted plus any monies not otherwise expended by counties and/or eligible recipients in a given fiscal year.

(1) Each fiscal year, the bureau shall request proposals to distribute funds from the uncompensated care allotment for uncompensated trauma care provided by designated trauma facilities in either the current or immediately previous fiscal year or innovative projects to enhance the delivery of patient care in the overall system.

(2) Contract awards from the uncompensated care allotment shall be made based on, but not limited to:

- (A) demonstration of need and the amount of uncompensated trauma care provided;
- (B) innovation of proposal;
- (C) broad system impact;
- (D) enhancement of system development; and

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(E) availability of funds.

(e) Eligibility requirements. To be eligible for funding from the account, all potential recipients must maintain active involvement in regional system development within all of the TSAs in which they operate and meet requirements for reports of expenditures from the previous year and planning for use of the funding in the upcoming year.

(1) To be eligible for funding, an EMS provider must:

(A) maintain provider licensure as described in §157.11 of this title and provide emergency medical services and/or emergency transfers;

(B) electronically submit data to the RAC regional registry or the department as prescribed in §103.16 of this title (relating to Reporting Requirements for Pre-hospital Providers);

(C) demonstrate utilization of the RAC regional protocols regarding patient destination and transport in all TSAs in which they operate; and

(D) demonstrate active participation in the regional system quality improvement (QI) program in all TSAs in which they operate.

(2) To be eligible for funding, a RAC must:

(A) be officially recognized by the department as described in §157.123 of this title;

(B) submit documentation of ongoing system development activity and future planning;

(C) have implemented a regional registry or submitted to the department documentation that at least 50% of the total number of EMS providers and hospitals in the TSA are electronically submitting data to the department as prescribed in Chapter 103 of this title (relating to Injury Prevention and Control); and

(D) have demonstrated that a regional system QI process is ongoing.

(3) To be eligible for funding, a trauma facility must maintain its designation status.

(4) To be eligible to distribute the EMS and TSA allotments, a RAC must be incorporated as an entity that is exempt from federal income tax under the Internal Revenue Code of 1986, §501(a), and its subsequent amendments, by being listed as an exempt organization under §501(c)(3) of the code.

(f) Calculation of county shares of the EMS allotment and the RAC shares of the TSA allotment.

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(1) EMS allotment.

(A) Counties will be classified as urban or rural based on the latest official federal census population figures.

(B) The EMS allotment will be derived by adjusting the weight of the statutory criteria in such a fashion that, in so far as possible, 40% of the funds are allocated to urban counties and 60% are allocated to rural and frontier counties.

(C) An individual county's share of the EMS allotment shall be based on its geographic size, population, and number of emergency health care runs multiplied by adjustment factors so the distribution approximates the required percentages to urban and rural and frontier counties.

(D) The formula shall be: (((the county's population times an adjustment factor) plus (the county's geographic size times an adjustment factor) plus (the county's total emergency health care runs times an adjustment factor) divided by 3)) times (the total EMS allocation). The adjustment factors will be manipulated so that the distribution approximates the required percentages to urban and rural and frontier counties. Total emergency health care runs shall be the number of emergency runs electronically transmitted to the department in a given year by EMS providers.

(2) TSA allotment.

(A) A RAC's share of the TSA allotment shall be based on its relative geographic size and population as compared to all other TSAs.

(B) The formula shall be: (((the TSA's percentage of the state's total population) plus (the TSA's percentage of the state's total geographic size)) divided by 2) times (the total TSA allotment).

(C) After August 31, 2003, a RAC's share of the TSA allotment shall be based on its relative geographic size, population, and trauma care provided as compared to all other TSAs.

(D) After August 31, 2003, the formula shall be: (((the TSA's percentage of the state's total population) plus (the TSA's percentage of the state's total geographic size) plus (the TSA's percentage of the state's total trauma care) divided by 3)) times (the total TSA allotment). Total trauma care shall be the number of major and severe trauma patient records electronically transmitted to the department in a given year by EMS providers and hospitals.

(g) Loss of funding eligibility. If the department finds that a county, EMS provider, RAC, or trauma facility has violated the Health and Safety Code, §773.122 or fails to comply with this section, the department may withhold account monies for a period of one to three years depending upon the seriousness of the infraction.